

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

PANAGIOTIS KROKOS and CHARLES  
TUTTLE, on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

THE FRESH MARKET, INC.,

Defendant.

No. 1:16-cv-12082-IT

**JOINT STIPULATION TO CONDITIONAL CERTIFICATION AND NOTICE**

Pursuant to Fed. R. Civ. P. 26(d) and 83(b), and Section 16(b) of the Fair Labor Standards Act (“FLSA”), Defendant The Fresh Market, Inc. (“Defendant”) and Plaintiffs Panagiotis Krokos and Charles Tuttle (“Plaintiffs”) hereby jointly agree to conditional collective action certification of this FLSA action and the issuance of notice to potential opt-in plaintiffs, subject to the Court’s approval of this Joint Stipulation, which reflects the terms of the parties’ agreement.

1. By January 20, 2017, the parties shall jointly submit a proposed notice and consent form to be authorized by the Court. If the parties are not able to agree on the terms of a proposed notice and consent form, they shall raise any disputes with respect thereto with the Court by January 20, 2017.

2. The parties will obtain bids and retain Rust Consulting, Inc. or SSI (“the notice administrator”) to administer the notice process and Defendant will provide to the notice administrator a list of potential opt-in plaintiffs containing their name, last known home addresses (including zip codes), Social Security Numbers, store location, and last known telephone numbers. The list will include all former and current assistant store managers

(“ASMs”) employed by Defendant nationwide between October 18, 2013 and February 10, 2017 who were classified as exempt from overtime. This information will not be provided to Plaintiffs’ counsel, although Plaintiffs reserve the right to request this information in discovery, and Defendant reserves the right to challenge any such request.

3. The notice administrator will mail the proposed notice referred to in paragraph 1 to the individuals appearing on the list referred to in paragraph 2 by first class mail on February 24, 2017. The notice administrator shall include an addressed stamped envelope in the notice mailing. The notice administrator shall also send a reminder postcard to all potential opt-in plaintiffs who have not returned a signed consent form on or before March 24, 2017. Upon receipt of signed consent forms, the notice administrator will email the consent forms to counsel on a weekly basis to be filed by Plaintiffs’ counsel with the Court. The parties will split equally all costs for the services provided by the notice administrator including mailing the notice, except that Plaintiffs’ counsel will pay for the addressed stamped envelopes. For purposes of the limitations period under the FLSA, the filing date for consent forms will be considered the date the form is received by the notice administrator.

4. Before mailing, the notice administrator will update addresses through the National Change of Address database. The notice administrator also will perform address tracing and forwarding for undeliverable notices.

5. A declaration will be provided by the notice administrator to counsel for both parties attesting that the notice administrator has complied with the terms of this stipulation.

6. The notice administrator will permit any of the undersigned counsel or their duly designated agents to inspect and audit, at reasonable times, all records of the notice administrator

pertaining to the notice herein once the opt-in process has been completed (excluding the list referred to in paragraph 2, which shall not be shared with Plaintiffs' counsel).

7. The opt-in period will close on April 24, 2017. However, in the event that a notice is re-mailed to a potential opt-in plaintiff, that opt-in plaintiff shall have 45 days to submit a signed consent form or until April 24, 2017, whichever is later.

8. Upon completion of the opt-in process, the notice administrator will provide the full list of opt-in plaintiffs to Plaintiffs' counsel. The list will contain the name, last known home address (including zip code), Social Security Numbers, store location, and last known telephone number, of all individuals who properly opted into this action.

9. Neither party will contact any of the potential opt-in plaintiffs for any purpose related to this action, including to encourage or discourage them from opting in to this lawsuit, during the opt-in period, except that plaintiffs' counsel may respond to inquiries from potential opt-in plaintiffs during this time with no restrictions on what advice plaintiffs' counsel may provide. Plaintiffs' counsel may contact opt-in plaintiffs after they have opted in without restrictions.

10. Nothing herein shall limit Defendant's ability to move for decertification of the FLSA collective action at any point following the close of the opt-in period.

Respectfully submitted,

PANAGIOTIS KROKOS and CHARLES  
TUTTLE, on behalf of themselves and all others  
similarly situated,

By their attorneys,

/s/ Brant Casavant  
Hillary Schwab, BBO #666029

THE FRESH MARKET, INC.,

By their attorneys,

/s/ Esther G. Lander

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**Dated:** January 13, 2017